IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 26466 of 2006(A)

PETITIONER:

MRS.INDIRA JOB, VEENUS RUBBER INDUSTRIES
INDUSTRIAL ESTATE, KALAMASSERY, ERNAKULAM.

BY ADV. SRI.V.N.SWAMINATHAN

RESPONDENTS:
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1. TAHSILDAR, KANAYANNUR TALUK,
ERNAKULAM.

2. ASSISTANT EXECUTIVE ENGINEER,
KERALA WATER AUTHORITY, KALAMASSERY,
ERNAKULAM.

R2 BY ADV. SRI.M.DINESH, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF NOTICE DT.12.7.2002 ISSUED BY R2 TO THE PETITIONER.

P2: TRUE COPY OF LETTER DT.5.10.02 RECEIVED BY PETITIONER ON 3.12.2002.

P3: TRUE COPY OF REPLY NOTICE DT.9.12.2002 SENT BY THE PETITIONER.

P4: TRUE COPY OF R.R. NOTICE DT.18.9.2006.

P5: .DO. .DO.

RESPONDENT'S EXHIBITS:

R2: TRUE COPY OF NOTICE SERVED TO THE PETITIONER BY REGD. POST ON 12.9.2005.

R2(a): TRUE COPY OF ACKNOWLEDGEMENT.

R2(b): TRUE COPY OF DETAILS OF METER READING AND THE ARREAR BILL.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.26466 of 2006

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Dated this the 29th day of May, 2007.

JUDGMENT

The petitioner is engaged in running a rubber industry where there is a water connection given by the Kerala Water Authority. Supply is disconnected on account of non-payment of arrears which is for the period 1993-2005. It is seen that the Water Authority allowed petitioner to enjoy water supply without payment of any amount. Therefore, obviously penalty cannot be fastened on the petitioner. However, having regard to the fact that the petitioner also has not made any payment, I feel petitioner is liable to pay interest for the belated period i.e. eversince the raising of bill. Though petitioner has stated that no bill is raised, counsel for Water Authority referred to Ext.P1 produced by petitioner herself where bill for Rs.65,079/- is seen raised on 12.7.2002. Therefore, petitioner's claim that bill is not raised is incorrect. In the circumstances, W.P. is disposed of directing the petitioner to pay Rs.48,008/- together with interest at 12% per annum from 1.8.2002 till date of payment and payment should be made on or before 30.6.2007. Recovery proceedings will be kept in abeyance till 30.6.2007 and if payment is not made by then, Rs.48,008/- together with

interest at 12% from 1.8.2002 till date and collection charges will be recovered from the petitioner by taking coercive steps.

Even though petitioner has raised limitation as a ground, I do not think petitioner is entitled to plead limitation after continuously enjoying water connection. As long as connection is enjoyed by the petitioner, there is an implied undertaking to clear the arrears and therefore, this contention is rejected.

C.N.RAMACHANDRAN NAIR
Judge

pms